

6-14-1995

Taxes, Fees, Assessments.

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Bill Jones
Secretary of State

1500 - 11th Street
Sacramento, CA 95814

Elections Division
(916) 657-2166
For Hearing and Speech
Impaired Only: (800) 833-8683

#661

June 14, 1995

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT (95063)

Pursuant to Section 336 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

TAXES, FEES, ASSESSMENTS.
INITIATIVE CONSTITUTIONAL AMENDMENT.

Circulating and Filing Schedule

1. Minimum number of signatures required 693,230
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date Wednesday, 06/14/95
Elec. C., Sec. 336.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures Wednesday, 06/14/95
Elec. C., Sec. 336.
 - b. Last day Proponent can circulate and file with
the county. All sections are to be filed at
the same time within each county Monday, 11/13/95 *
Elec. C., Secs. 336, 9030(a)
 - c. Last day for county to determine total number of
signatures affixed to petition and to transmit total
to the Secretary of State Monday, 11/27/95
Elec. C., Sec. 9030(b)

(If the Proponent files the petition with the county on a date prior to 11/13/95, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 9030(b).

* Date adjusted for official deadline which falls on Saturday, Sunday or holiday. Elec. C., Sec. 15.

- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties Wednesday 12/06/95**
Elec. C., Sec. 9030(c)
- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Monday, 01/22/96
Elec. C., Sec. 9030(d)
- (If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 12/06/95, the last day is no later than the thirtieth day after the county's receipt of notification.)
Elec. C., Sec. 9030(d), (e).
- f. If the signature count is more than 762,553 or less than 658,569 then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 658,569 and 762,553 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures Thursday, 02/01/96**
Elec. C., Secs. 9030(f), (g); 9031(a)
- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Monday, 03/18/96
Elec. C., Sec. 9031(b), (c)
- (If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 02/01/96, the last day is no later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 9031(b), (c).
- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient Friday, 03/22/96**
Elec. C., Sec. 9031(d), 9033

** Date varies based on receipt of county certification.

4. The Proponents of the above-named measure are:

Joel Fox
Richard L. Gann
Lee A. Phelps
Howard Jarvis Taxpayers Association
621 South Westmoreland Avenue, Suite 202
Los Angeles, CA 90005-3971

5. Important Points:

- (a) California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fund raising or requests for support. Any such misuse constitutes a crime under California law. Elections Code section 18650; Bilofsky v. Deukmejian (1981) 123 Cal.App. 3d 825, 177 Cal.Rptr. 621; 63 Ops. Cal.Atty.Gen. 37 (1980).
- (b) Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- (c) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (d) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (e) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (f) When filing the petition with the county elections official, please provide a blank petition for elections official use.

NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE MARCH 26, 1996 PRIMARY ELECTION: This initiative must be certified for the ballot 131 days before the election (November 16, 1995). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections officials by September 8, 1995. If a 100% check of signatures is necessary, it is advised that the petitions be filed by July 19, 1995.

Sincerely,



CATHY MITCHELL
INITIATIVE COORDINATOR

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
(916) 445-9555

Facsimile: (916) 324-8835
(916) 324-5490

June 14, 1995

FILED

In the office of the Secretary of State
of the State of California

Bill Jones
Secretary of State
1500 - 11th Street
Sacramento, CA 95814

JUN 14 1995

BILL JONES, Secretary of State
By [Signature]
Deputy Secretary of State

Re: Initiative Title and Summary
Subject: TAXES, FEES, ASSESSMENTS. INITIATIVE CONSTITUTIONAL AMENDMENT.
File No: SA 95 RF 0002

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponents of the above-identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the names and address of the proponents are as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN
Attorney General

[Signature]

KATHLEEN F. DaROSA
Initiative Coordinator

KFD:ms
Enclosures

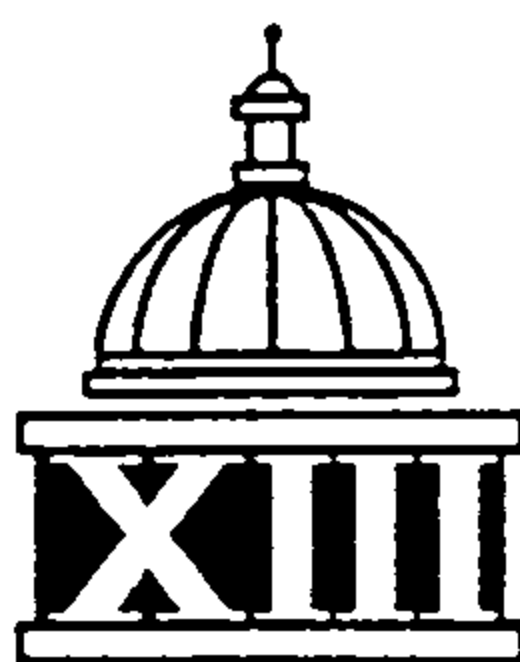
Date: June 14, 1995
File No: SA95RF0002

The Attorney General has prepared the following title and summary of the chief purpose and points of the proposed measure:

TAXES, FEES, ASSESSMENTS. INITIATIVE CONSTITUTIONAL AMENDMENT.

Limits authority of local governments, including charter governments, to impose taxes and property-related assessments and fees. Requires majority of voters approve increases in general taxes. Prohibits property-related assessments except for capital, maintenance and operation costs for sidewalks, streets, sewers, water, flood control, drainage, vector control, unless all property owners sign petition. Requires voter ratification of specified assessments imposed after June 6, 1978; general taxes after January 1, 1995. Specifies procedures for implementing assessments, fees. Limits fees to cost of service. Most new or increased fees require majority vote of property owners or two-thirds of affected residents. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: The measure's restrictions on fees would result in immediate local government revenue losses, possibly exceeding \$100 million, and more if voters fail to ratify assessments and taxes, or use initiative powers to reduce local revenues. A reduction of millions to tens of millions of dollars of future local government revenues is possible due to restrictions on raising revenues. The measure could also result in millions in increased annual local government costs related to new procedures, including election requirements.

HOWARD JARVIS
TAXPAYERS
ASSOCIATION



HOWARD JARVIS, Founder (1903-1986)
ESTELLE JARVIS, Honorary Chairman
JOEL FOX, President
TREVOR GRIMM, General Counsel
JONATHAN M. COUPAL, Director of Legal Affairs

April 18, 1995

RECEIVED
APR 19 1995

Ms. Kathleen F. DaRosa
Initiative Coordinator
Attorney General's Office
1515 K. Street, 6th Floor
Sacramento, CA 95814

COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. Da Rosa,

By this letter we respectfully request the Attorney General to prepare a title and summary of the chief purpose and points of the amended Protect Proposition 13 Initiative, a copy of which is attached. The sole amendment relates to the consolidation of ratification elections under proposed Article XIIID, Section 5.

Any correspondence regarding this initiative should be directed to the Howard Jarvis Taxpayers Association, 621 S. Westmoreland Ave., Suite 202, Los Angeles, CA 90005.

If you have any questions, please feel free to contact any of us.

Sincerely,

Joel Fox
Joel Fox

Citizens Committee, Inc.

A NON-PROFIT CORPORATION

PAUL GANN, Founder
RICHARD GANN, President

Spirit
of **13**

April 18, 1995

Ms. Kathleen F. DaRosa
Initiative Coordinator
Attorney General's Office
1515 K Street, 6th Floor
Sacramento, CA 95814

RECEIVED
APR 19 1995

COORDINATOR
ATTORNEY GENERAL'S OFFICE

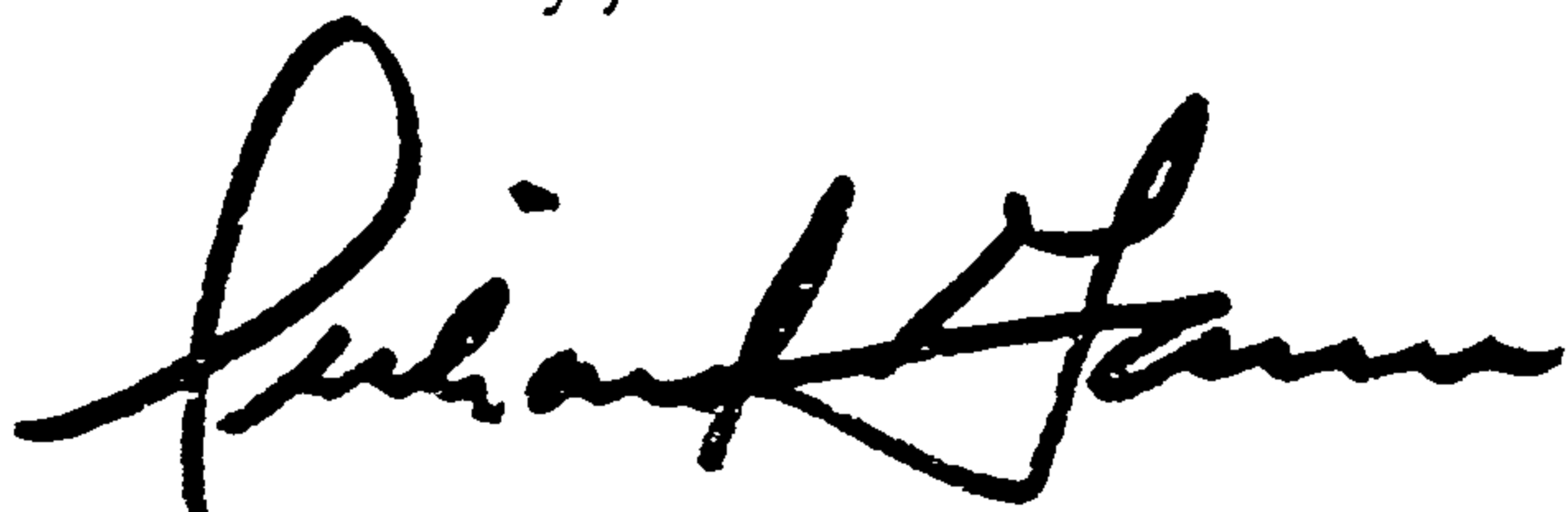
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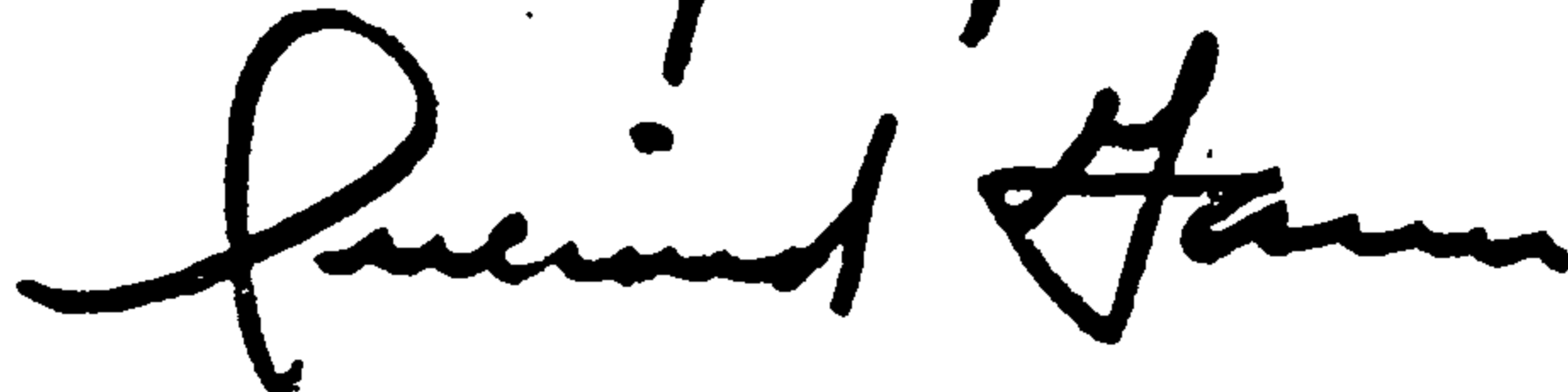
Sincerely,



Richard L. Gann

PS. Please SEND COPIES OF ANY correspondence
to my office listed below.

Thank You,





ALLIANCE OF CALIFORNIA TAXPAYERS & INVOLVED VOTERS

P.O. DRAWER 330, APTOS, CA 95001-0330 ■ TELEPHONE (408) 688-8986 ■ TELEFAX (408) 662-9138

State Chairman

Jane A. Armstrong

Board of Advisors

David Keating
*Executive Vice President,
National Taxpayers
Union*

Lewis K. Uhler, Jr.
*President, National Tax
Limitation Committee*

Joel Fox
*President, Howard Jarvis
Taxpayer Association*

Richard Gann
*President, Paul Gann
Citizens Committee*

J.G. "Mike" Ford, Jr.
*Chairman, Vindicator
Corporation*

Founder

Lee A. Phelps

Correspondent Organizations

American Legislative
Exchange Council

Americans for Tax
Reform

California Taxpayers'
Association

Center for California
Taxpayer

Citizens Against
Government Waste

Heritage Foundation

National Taxpayers
Union Foundation

Pacific Legal
Foundation

Pacific Research
Institute

Tax Foundation of
Washington, D.C.

U.S. Term Limits

April 18, 1995

Ms. Kathleen F. DaRosa
Initiative Coordinator
Office of the Attorney General
1515 K Street, 6th Floor
Sacramento, CA 95814

RECEIVED
APR 19 1995

COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Ms. DaRosa:

By this letter, we respectfully request the Attorney General prepare a Title and Summary of the chief purpose and points of the amended Protect Proposition 13 initiative, a copy of which is attached. The sole amendment relates to consolidation of ratification elections under proposed Article XIIID, Section 5.

Any correspondence regarding the initiative should be directed to the Howard Jarvis Taxpayers Association, 621 S. Westmoreland Avenue, Suite 202, Los Angeles, CA 90005.

If you have any questions, please feel free to contact any of us.

Sincerely yours,



Lee A. Phelps

Founder, ACTIV

Co-proponent, Protect Proposition 13 Act

PROTECT PROPOSITION 13 ACT

SECTION 1. TITLE. This Act shall be known and may be cited as the Protect Proposition 13 Act.

SECTION 2. FINDINGS AND DECLARATIONS. The People of the State of California hereby find and declare that Proposition 13 was intended to provide effective property tax relief. However, local governments have subjected taxpayers to excessive tax, assessment and fee levies that not only frustrate the purpose of Proposition 13, but also threaten the economic security of all Californians and the California economy itself. This measure protects Proposition 13 by limiting the methods by which local governments exact revenue from taxpayers without their consent.

SECTION 3. VOTER APPROVAL FOR LOCAL TAX LEVIES. Article XIIIIC of the California Constitution is hereby added:

SEC. 1. Definitions.

As used in this article:

- (a) "General tax" means any tax imposed for general governmental purposes.
- (b) "Local government" means any county, city, city and county, including a chartered city or county, any special district, or any other local or regional governmental entity.
- (c) "Special District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions with limited boundaries including, but not limited to, school districts.
- (d) "Special tax" means any tax imposed for specific purposes including taxes imposed for specific purposes which are placed into a general fund.

SEC. 2. Local Government Tax Limitation.

Notwithstanding any other provision of this Constitution:

- (a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.
- (b) No local government may impose, extend or increase any general tax unless and until such tax is submitted to the electorate and approved by a majority vote. A

general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with the regularly scheduled general election for members of the governing body of the local government except in cases of emergency declared by a unanimous vote of the governing body.

- (c) Any general tax imposed, extended or increased, without voter approval, by any local government on or after January 1, 1995 and prior to the effective date of this Article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this Article and in compliance with subdivision (b) of this section.
- (d) No local government may impose, extend or increase any special tax unless and until such tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved.

SEC. 3. Initiative Power For Local Taxes, Assessments and Fees.

Notwithstanding any other provision of this Constitution, including, but not limited to, Article II, Sections 8 and 9, the initiative power shall not be limited in matters of reducing or repealing any local tax, assessment or fee. The power of initiative to affect local taxes, assessments and fees shall be applicable to all local governments as defined by Article XIIC and neither the legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives.

SECTION 4. ASSESSMENT AND PROPERTY RELATED FEE REFORM.

Article XIID of the California Constitution is hereby added:

SEC. 1. Application.

Notwithstanding any other provision of law, the provisions of this Article shall apply to all property related assessments and fees whether imposed pursuant to state statute or local government charter authority. Nothing in this Article or Article XIIC shall be construed to:

- (a) provide any new authority to any agency to impose a tax, assessment or fee;

- (b) affect existing laws relating to the imposition of fees or other charges as a condition for property development; or
- (c) affect existing laws relating to the imposition of timber yield taxes.

SEC. 2. Definitions.

As used in this article:

- (a) "Agency" means any local government as defined in Article XIIIIC, Section 1(b).
- (b) "Assessment" means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. "Assessment" includes "special assessment," "benefit assessment," "maintenance assessment" and "special assessment tax."
- (c) "Capital cost" means the cost of acquisition, installation, construction, reconstruction or replacement of a public improvement by an agency.
- (d) "District," as used in this Article, means an area determined by an agency to contain all parcels which will specially benefit from a proposed public improvement or property-related service.
- (e) "Fee" or "charge" means any levy other than an ad valorem tax, a special tax or an assessment, imposed by an agency upon a person as an incident of property ownership.
- (f) "Maintenance and operation expenses" means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a public improvement.
- (g) "Property ownership" shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.
- (h) "Property-related service" means a public service having a direct relationship to the ownership of property.

SEC. 3. Property Taxes, Assessments and Fees Limited.

- (a) No tax, assessment, fee, or any other charge by any agency shall be assessed upon any parcel of property or upon any person as an incident of property ownership except:
 - (1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A of this Constitution.
 - (2) Any special tax not otherwise prohibited by this Constitution.
 - (3) Assessments as provided by this Article.
 - (4) Fees or charges for property related services as provided by this Article.
- (b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership.

SEC. 4. Procedures and Requirements for All Assessments.

- (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement or the maintenance and operation expenses of a public improvement or for the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportionate special benefit conferred on that parcel. Only special benefits are assessable, and an agency must separate the general benefits from the special benefits conferred on a parcel.
- (b) All assessments must be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.
- (c) The amount of the proposed assessment for each identified parcel shall be calculated and the owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount payable by each such owner, the duration of such payments, the reason for such assessment and the basis upon which the amount of the proposed assessment was calculated, together

with the date, time, and location of a public hearing on the proposed assessment.

- (d) Each such notice mailed to owners of identified parcels within the district shall contain, for optional use by the property owner, a protest form which includes the agency's address for receipt of any such form once completed by any owner receiving such notice, and which contains blanks whereby each such owner may indicate his or her name, reasonable identification of the parcel and opposition to the proposed assessment.
- (e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, written protests presented or filed represent property owners obligated to pay 50 percent or more of the expected revenue from the assessment.
- (f) As of the effective date of this Article, no agency shall impose or increase any assessment except to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, or flood control, drainage systems and vector control.
- (g) This section shall not apply to any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.

SEC. 5. Voter Ratification of Assessments Imposed After 1978

All assessments imposed after June 6, 1978 and before the effective date of this Article must be ratified pursuant to an election conducted within two years after the effective date of this Article. In order that excessive costs to the taxpayers not be incurred, an election required by this subdivision shall be consolidated with any other regularly scheduled election unless a special election is called by a unanimous vote of the governing body. An assessment shall not be deemed ratified without majority voter approval from the voters in the district voting in an election on the issue of the ratification. Assessments so ratified shall subsequently be considered to be special taxes and shall thereafter be subject to the provisions of Article XIIC. This section shall not apply to:

- (a) any assessment imposed exclusively for purposes permitted by Section 4(f);

- (b) any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed;
- (c) any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States of America; or,
- (d) any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment.

SEC. 6. Property Related Fees and Charges.

- (a) **Procedures for All Fees and Charges Imposed as an Incident To Property Ownership.** An agency shall follow the procedures pursuant to this section in imposing or increasing any fee as defined pursuant to this article including, but not limited to, the following:
 - (1) The parcels upon which a fee is proposed for imposition shall be identified. The amount of the fee proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee to the owner of each identified parcel upon which the fee is proposed for imposition, the amount of the fee proposed to be imposed upon each, the basis upon which the amount of the proposed fee was calculated, the reason for the fee, together with the date, time, and location of a public hearing on the proposed fee.
 - (2) The agency shall conduct a public hearing upon the proposed fee not less than 45 days after mailing the notice of the proposed fee to the record owners of each identified parcel upon which the fee is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee. If written protests against the proposed fee are presented by a majority of owners of the identified parcels, the agency shall not impose the fee.
- (b) **Requirements for All Existing, New or Increased Property Related Fees and Charges.** A property related fee or charge shall not be imposed or increased by any agency unless it meets all of the following requirements:
 - (1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property related service.

- (2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.
 - (3) The amount of a fee or charge imposed upon any parcel shall not exceed the proportional cost of the service attributable to the parcel:
 - (4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted.
- (c) **Voter Approval for New or Increased Property Related Fees and Charges.** Except for fees or charges for sewer, water, and refuse collection services, no property related fee or charge shall be imposed or increased unless and until such fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing on the fee.

SECTION 5. LIBERAL CONSTRUCTION. The provisions of this Act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

SECTION 6. SEVERABILITY. If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

